

## UNITED STATES DISTRICT COURT

Southern

District of

New York

THE BANK OF NEW YORK TRUST COMPANY, N.A.,  
as Trustee,**SUMMONS IN A CIVIL ACTION**

V.

FIRST MAGNUS CAPITAL, INC., THOMAS W. SULLIVAN, SR.,  
as Trustee of the THOMAS W. SULLIVAN REVOCABLE TRUST,

CASE NUMBER:

07 CIV 8255

**JUDGE CASTEL**

TO: (Name and address of Defendant)

FIRST MAGNUS CAPITAL, INC.  
603 NORTH WILMOT ROAD  
TUCSON, AZ 85711**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)Kenneth G. Roberts  
Wolf, Block, Schorr and Solis-Cohen, LLP  
250 Park Avenue  
New York, NY 10177

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

**J. MICHAEL McMAHON**

SEP 21 2007

CLERK

DATE

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

<b>RETURN OF SERVICE</b>		
Service of the Summons and complaint was made by me <sup>(1)</sup>	DATE	
NAME OF SERVER (PRINT)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the defendant. Place where served:		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:		
<input type="checkbox"/> Returned unexecuted:		
<input type="checkbox"/> Other (specify):		
<b>STATEMENT OF SERVICE FEES</b>		
TRAVEL	SERVICES	TOTAL \$0.00
<b>DECLARATION OF SERVER</b>		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____            Date _____  <i>Signature of Server</i>    <i>Address of Server</i></p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.



DLS

Demovsky Lawyer Service

Premier Nationwide Document Retrieval  
and Process Service CompanyUNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKTHE BANK OF NEW YORK TRUST COMPANY, N.A.,  
as Trustee,

Plaintiff,

Case No. 07 CIV 8255  
(Judge Castel)

-against-

FIRST MAGNUS CAPITAL, INC.,  
THOMAS W. SULLIVAN, SR., as Trustee of the  
THOMAS W. SULLIVAN REVOCABLE TRUST,

## AFFIDAVIT OF SERVICE

Defendants.

STATE OF ARIZONA )

S.S.:

COUNTY OF PIMA )

X

*Michele Yontef*, being duly sworn, deposes and says that he/she is over the age of eighteen years, is an agent of the attorney service, D.L.S., Inc., and is not a party to this action.

That on the 2<sup>nd</sup> day of October, 2007, at approximately the time of 1:15 pm, deponent served a true copy of the SUMMONS IN A CIVIL ACTION; COMPLAINT; EXHIBIT A; ORDER SCHEDULING INITIAL PRETRIAL CONFERENCE; CIVIL CASE MANAGEMENT PLAN AND SCHEDULING ORDER; 3<sup>RD</sup> AMENDED INSTRUCTIONS FOR FILING AN ELECTRONIC CASE OR APPEAL; PROCEDURES FOR ELECTRONIC CASE FILING; AND INDIVIDUAL PRACTICES OF JUDGE P. KEVIN CASTEL upon FIRST MAGNUS CAPITAL, INC. at 603 North Wilmont Road, Tucson, AZ, by personally delivering and leaving the same with *Brian Harlow* who informed deponent that *he* holds the position of *Legal Department* with that company and is authorized by appointment to receive service at that address.

*Brian Harlow* is a *Anglo Male*, approximately *35* years of age, stands approximately *6* feet *1* inches tall, weighs approximately *150* pounds with *dark blonde* hair.

*Michele Yontef*

PROCESS SERVER

Sworn to before me this  
8<sup>th</sup> day of October, 2007*M. Christina Celaya*  
NOTARY PUBLIC